



The following constitutes the Memorandum Decision of
the Court. Signed: July 22, 2021

A handwritten signature in black ink, appearing to read "Roger L. Efremsky", is positioned above the judge's name.

Roger L. Efremsky
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In re

SONOMA WEST MEDICAL CENTER, INC.,
Debtor.

Chapter 7
Case No. 18-10665 RLE

TIMOTHY W. HOFFMAN, Trustee in
Bankruptcy of Estate of Sonoma
West Medical Center,

AP No. 19-1030 RLE

Plaintiff,

v.

SONOMA SPECIALTY HOSPITAL, LLC,
et al.,

Defendants.

And Related Counterclaim

MEMORANDUM DECISION GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT

I. Introduction

The parties are familiar with the factual and procedural

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1 background in this case and it will not be repeated in detail
2 here.

3 Following a four-day trial on the first phase of this case,
4 on February 23, 2021 the court issued its ruling on what is known
5 as the Threshold Issue. Docket No. 140 (the "Decision"). The
6 court there determined that the estate of the Sonoma West Medical
7 Center ("Sonoma West" or "Debtor") owned the pre-September 9,
8 2018 receivables (the "Receivables"), as plaintiff, its Trustee,
9 asserted. The court has scheduled a trial on the second phase of
10 this case to determine the amount Defendant and Counterclaimant
11 Sonoma Specialty Hospital ("SSH"), and its parent,
12 Counterclaimant American Advanced Management Group, Inc. ("AAMG")
13 must pay to the estate for their unauthorized use of the
14 Receivables (the "Damages").

15 The Trustee now moves for entry of an order granting partial
16 summary judgment on the Counterclaims asserted by SSH and AAMG
17 (collectively, "Counterclaimants" or, for ease of reference,
18 "Defendants"). Memorandum of Points and Authorities, Docket No.
19 207. Each of the five claims stated in the Counterclaim is
20 premised on the allegation that SSH and AAMG owned, and were
21 entitled to use, the Receivables and have been damaged by the
22 Trustee's competing claim of ownership. The Trustee asserts that
23 the application of the law-of-the-case doctrine mandates summary
24 judgment in his favor on each of the Claims asserted in the
25 Counterclaim because the question of ownership of the Receivables
26 has been established and the upcoming trial on Damages (i.e., the

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1 actual amount of the Receivables collected and used by
2 Defendants) will determine the remainder of this case.

3 Defendants respond that the court cannot or should not
4 employ law-of-the-case, and because there are still triable
5 issues of fact as to their damages which will either reduce or
6 eliminate the Trustee's Damages, summary judgment on the
7 Counterclaim is not appropriate. Opposition, Docket No. 209.

8 The court is not persuaded by any of Defendants' arguments.
9 Defendants and their counsel are reminded of their duties under
10 Bankruptcy Rule 9011(b): by presenting any position to the court,
11 they are certifying that they have made reasonable inquiry, that
12 it is not being presented to cause unnecessary delay or needless
13 increase in the cost of litigation, that their claims, defenses,
14 legal contentions are warranted, their factual contentions have
15 evidentiary support, and their denials of factual contentions are
16 warranted on the evidence. *See also, Weston v. Harmatz*, 335 F.3d
17 1247, 1256-58 (10th Cir. 2003) (court issued order to show cause
18 re sanctions when parties repeatedly ignored previous binding
19 rulings that were law of the case).

20 **II. Background**

21 **A. The Counterclaim**

22 In response to the Trustee's complaint seeking, *inter alia*,
23 turnover of the Receivables as property of the estate, Defendants
24 filed their Answer and Counterclaim. Dkt. No. 9.

25 The general allegations section of the Counterclaim
26 describes the agreement between the Palm Drive Health Care

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1 District (the "District") and Sonoma West that ended as of
2 September 9, 2018 (the "MSSA") and the agreement between
3 Defendants and the District which replaced it (the "MSA").
4 Paragraphs 7-11. These paragraphs lay out the theory that the MSA
5 is the "only operative contract" which gives rise to Defendants'
6 claim of ownership of the Receivables.

7 From this starting point, the Counterclaim alleges the
8 following story at paragraphs 8-24: (1) The Trustee interfered
9 with Defendants' contract with the District by "wrongfully
10 claiming" the estate "owned and/or was entitled" to the
11 Receivables and "in blocking" SSH from collecting them (§12).
12 (2) The Trustee interfered with Defendants' contract with the
13 District by "constantly claiming" that the estate "owned" the
14 Receivables (§18). (3) The Trustee continued to interfere with
15 their contract with the District by "wrongfully obtaining" court
16 process when the Trustee obtained a court order requiring
17 transfer of funds to his custody (§19). (4) The Trustee committed
18 "fraud on the court" by "misrepresenting" that the Receivables
19 "belonged to" the estate (§22).

20 The First Claim at paragraphs 25-28 is for "tortious
21 interference with contract" and incorporates the allegations of
22 paragraphs 1-24. The First Claim alleges that the Trustee
23 interfered with Defendants' contract with the District by his
24 misrepresentations of ownership, by blocking their billing, by
25 collection and use of the Receivables.

26 The Second Claim at paragraphs 29-34 incorporates paragraphs

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1 1-28. It alleges that the Trustee and his counsel "intentionally
2 misrepresented" to Defendants that the estate owned the
3 Receivables and this damaged them.

4 The Third Claim at paragraphs 35-38 incorporates paragraphs
5 1-34. It alleges the Trustee abused process and committed "fraud
6 on the court" when the Trustee made these alleged
7 misrepresentations of ownership to the court in order to obtain
8 the turnover orders issued in the main case.

9 The Fourth Claim at paragraphs 39-43 incorporates paragraphs
10 1-38. It alleges the Trustee "converted" the Receivables by
11 wrongfully taking possession and control over the funds under
12 these prior turnover orders and by making demand for the
13 Receivables in his complaint.

14 The Fifth Claim at paragraphs 44-48 incorporates all the
15 prior paragraphs of each of the Counterclaims. It alleges that
16 the Trustee is liable for damages due to his "gross negligence"
17 because he "breached his duty of care" to the creditors of the
18 estate by misrepresenting the estate's ownership of the
19 Receivables when they did not "belong" to the estate because they
20 were "owned" by Defendants.

21 Defendants ask for \$15 million in compensatory damages and,
22 in a truly astounding overreach, they also ask for punitive
23 damages based on the allegation that the Trustee acted
24 recklessly, maliciously, and wantonly. As the Trustee has pointed
25 out, a simple request for declaratory relief regarding ownership
26 would have sufficed. These tort claims were not necessary and

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1 have strained the resources of both the Trustee and the court.¹

2 **B. The Trustee's Summary Judgment Argument**

3 The Trustee correctly articulates the summary judgment
4 standard under Fed. R. Civ. P. 56, applicable here by Bankruptcy
5 Rule 7056. According to the Trustee, the Decision on the
6 Threshold Issue established that the estate owns the Receivables
7 and this is now the law-of-the-case. None of the exceptions to
8 its application are present and the court would abuse its
9 discretion if it failed to adhere to it. Accordingly, the Trustee
10 is entitled to summary judgment in his favor dismissing the
11 Counterclaim.

12 **C. Defendants' Opposition to Summary Judgment**

13 Defendants argue that the law-of-the-case doctrine does not
14 apply here because this court may not issue a final ruling on a
15 non-core matter such as the Threshold Issue. They also argue that
16 a final judgment is a prerequisite, citing *In re Brizinova*, 592
17 B.R. 442, 455 (Bankr. E.D. N.Y. 2018) (relying on *United States*
18 *v. U.S. Smelting Co.*, 339 U.S. 186, 189 (1950) in support of this
19 final judgment requirement).

20 Defendants next assert that the court is not rigidly bound
21 to follow its former decisions especially where the facts are
22 "still undeveloped." See generally 18B Charles Alan Wright &
23 Arthur R. Miller, *Federal Practice & Procedure*, §4478.1 (2d ed.
24 2015).

25 ¹ Defendants' second through fifth affirmative defenses are
26 duplicative of these Claims. Docket No. 9, p.11-13.

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1 They also argue that there are genuine factual disputes
2 regarding the Claims in the Counterclaim because: (1) The estate
3 has no right to be "reimbursed" from the Receivables based on
4 Defendants' interpretation of the Debtor's contract with the
5 District. (2) As a condition for "reimbursement" from the
6 Receivables, the Trustee had to prove - and cannot prove - that
7 the Debtor provided management services (as defined in the MSSA),
8 which included paying all accounts payable and collecting the
9 Receivables. (3) Because the Debtor's contract with the District
10 was "terminated for cause," the Debtor lost the right to be
11 "reimbursed" from the Receivables and lost its merely "inchoate
12 ownership" interest in the Receivables.

13 **III. Discussion**

14 **A. Summary Judgment Standard**

15 Fed. R. Civ. P. 56(a), applicable here by Bankruptcy Rule
16 7056, provides that the court shall grant summary judgment if the
17 movant shows that there is no genuine dispute as to any material
18 fact and the movant is entitled to judgment as a matter of law.
19 The movant bears the initial burden of establishing the absence
20 of a genuine issue of material fact. *Celotex Corp. v. Catrett*,
21 477 U.S. 317, 324-25 (1986). If this threshold is met, Rule 56(e)
22 requires the non-moving party to identify facts that establish
23 that there is a genuine dispute for trial. *Anderson v. Liberty*
24 *Lobby, Inc.*, 477 U.S. 242, 248 (1986). That is, the non-moving
25 party must present evidence from which a reasonable trier of fact
26 could rule in its favor. *Id.* Rule 56(g) permits the court to

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1 enter an order stating that any material fact that is not
2 genuinely in dispute is established in the case.

3 **B. Law-of-the-Case Standard**

4 The law-of-the-case is a discretionary doctrine based on the
5 sensible notion that litigation must come to an end. Simply
6 stated, "the law-of-the-case doctrine precludes a court from
7 reconsidering an issue previously decided by the same court or a
8 higher court in the identical case." *Ingle v. Circuit City*, 408
9 F.3d 592, 594 (9th Cir. 2005) (district court's interpretation of
10 California contract law was law of the case; sanctions in the
11 form of double costs and attorneys fees awarded for pursuing
12 appeal totally devoid of merit). The doctrine has developed to
13 maintain consistency and avoid reconsideration of matters once
14 decided during the course of a continuing lawsuit. *Id.*

15 For the law-of-the-case doctrine to apply, the issue in
16 question must have been decided explicitly or by necessary
17 implication in the previous disposition. *Hall v. City of L.A.*,
18 697 F.3d 1059, 1067 (9th Cir. 2012). *See also, True Health*
19 *Chiropractic v. McKesson Corporation*, 332 F.R.D. 589, 608-09
20 (N.D. Cal. 2019) (explaining law of the case applied following
21 remand based on Ninth Circuit's clear ruling on issue in question
22 in prior appeal).

23 A prior decision on an issue in the same case should be
24 followed unless (1) it is clearly erroneous and its enforcement
25 would work a manifest injustice; (2) intervening controlling
26 authority makes reconsideration appropriate; or (3) substantially
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1 different evidence is adduced at a subsequent trial. *Ingle*, 408
2 F.3d at 594; *Galen v. Redfin Corporation*, 2015 WL 7734137, *3-4
3 (N.D. Cal. Dec. 1, 2015) (declining to apply law of the case to
4 state court order following its reversal and removal of
5 litigation to federal court, discussing finality requirement,
6 meaning of changed circumstances and manifest injustice).

7 There is no requirement that there be a final judgment as
8 Defendants suggest in reliance on language in *In re Brizinova*,
9 592 B.R. 442, 455 (Bankr. E.D. N.Y. 2018) which in turn relied on
10 language from *United States v. U.S. Smelting*, 339 U.S. 186, 198-
11 99 (1950). There need only be a final ruling on an issue. *Ingle*,
12 408 F.3d at 594. See also *Matter of Oil Spill by Amoco Cadiz off*
13 *Coast of France on March 16, 1978*, 954 F.2d 1279, 1291-92 (7th
14 Cir. 1992) (explaining cases generally have not relied on
15 *Smelting* to limit law of the case to a decision on appeal from a
16 final judgment).

17 Finally, summary judgment is an appropriate means to dispose
18 of a case using the law-of-the-case doctrine. *Pubali Bank v. City*
19 *National Bank*, 777 F.2d 1340, 1342 (9th Cir. 1985).

20 **C. The Decision Disposes of the Counterclaim**

21 1. The Law-of-the-Case Doctrine Applies.

22 Each Claim in the Counterclaim is based on the allegation
23 that the estate does not own the Receivables and the Trustee
24 caused Defendants damage by saying it did. The Decision
25 conclusively and explicitly ruled that the estate owns the
26 Receivables. This is now the law of the case and Defendants offer

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1 no basis for this court to exercise its discretion to depart from
2 it. Nothing in the Defendants' Opposition shows that the Decision
3 is clearly erroneous, or that there is some manifest injustice to
4 Defendants in adhering to it. There has been no intervening
5 change in the applicable law. They offer no new evidence to
6 support their arguments against applying law-of-the-case.
7 Finally, there is no merit to their finality arguments whether
8 premised on the non-core nature of the ownership dispute or any
9 other factor. In denying the Defendants' motion to withdraw the
10 reference, the District Court agreed this court was the
11 appropriate court to decide the Threshold Issue. Defendants may
12 appeal any ruling of this court in due course.

13 2. Defendants do not raise any factual disputes.

14 Defendants' effort to contort their rejected contract
15 interpretation arguments into disputed factual issues to make the
16 Counterclaim viable simply does not work. Because they have no
17 claim to ownership of the Receivables, the Trustee's claim that
18 the estate did own the Receivables could not conceivably be the
19 basis for any damages to Defendants.

20 Comparing the arguments they made at trial, which were
21 rejected in the Decision, with the arguments they now make, by
22 twisting them into factual questions, shows their utter lack of
23 merit. Defendants essentially refuse to acknowledge that the
24 Decision exists.

25 Defendants identify the first factual issue as whether the
26 Debtor actually managed the District's hospital by paying its

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1 payables and collecting its receivables such that it had a right
2 to be reimbursed from them, focusing on the language of §5.1 of
3 the MSSA. Opposition, p.12:26-13:12. They challenge the meaning
4 of "ownership" in the Decision on the theory that it "can only be
5 viewed as an inchoate ownership interest which does not entitle
6 the Trustee to be paid by reimbursement" because the Debtor did
7 not pay all the hospital's accounts payable. Opposition, p.13:21-
8 23. They repeat the argument that under the MSA, the District
9 authorized Defendants to use the Receivables when the MSSA ended.
10 Opposition, p.13:23-26 (the Receivables were retained by the
11 District and Defendants were authorized to use them); p.15:7-10
12 (accrual referred to as ownership is an "empty vessel," and the
13 District was "free to allow" Defendants to use the Receivables).

14 Defendants made the same arguments in their Post-Trial
15 Brief. Post-Trial Brief, Docket No. 139, p.10:1-3 (following
16 termination, Receivables remained property of District so
17 Defendants could use them); p.10:17-19 (obligation to reimburse
18 was discharged when MSSA ended, even if Receivables had accrued,
19 Debtor's ownership ended); p.10:26-11:4 (Trustee failed to prove
20 Debtor provided management services so estate has no right to be
21 reimbursed from Receivables).

22 Defendants identify the second factual issue as a variation
23 on this theme, describing it as a question of what management
24 services were provided and what were their related costs, such
25 that independent of a breach of the MSSA, and the termination and
26 discharge analysis, there is a genuine issue regarding the extent

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1 to which the Trustee is entitled to reimbursement under §5.1 of
2 the MSSA and without a right to reimbursement there are no
3 Damages. Opposition, p.15:20-28 (the only evidence that can be
4 presented to the court is that accounts payable were not paid);
5 p.16:10-11 (to extent Debtor cannot prove a right to
6 reimbursement, Receivables defaulted to the District and
7 Defendants could use them); p.16:6-7 (the "mere existence of
8 accounts payable" owed by the estate "shows that the Trustee is
9 entitled to nothing").

10 Defendants argued at trial that the Trustee could not prove
11 that the Debtor's ownership of the Receivables had ever accrued
12 because the Debtor had failed to provide the management services
13 that were a predicate to ownership of the Receivables. Post-Trial
14 Brief, p.23:12-23 (no evidence of management services so no right
15 to reimbursement and no accrual). The Decision considered and
16 conclusively rejected this argument, noting that the sufficiency
17 of the Debtor's management services was not for Defendants to
18 determine or quarrel with. Decision, p.12:1-28 (explaining
19 meaning of accrual accounting under GAAP and its effect here);
20 p.19:1-15 (the fact that the Receivables were generated by
21 services provided by the Debtor during the term of the MSSA is
22 conclusive on the issue of when they accrued and the question of
23 the Debtor's pre-termination management services is irrelevant).

24 There are no disputed facts regarding "management services"
25 or "reimbursement" that are relevant here. These so-called
26 factual questions - which are in fact questions of contract

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1 interpretation - were raised, considered, and rejected in the
2 Decision.² Defendants first and second factual issues do not
3 provide a reason to deny summary judgment. The estate owns the
4 Receivables. This is the law of the case. Nothing Defendants now
5 argue changes the meaning of ownership in the Decision and the
6 Trustee's ownership of the Receivables is not an "empty vessel."

7 In Defendants third alleged factual issue they reassert the
8 theory that termination of the MSSA "for cause" discharged all of
9 the District's executory obligations including the obligation to
10 reimburse the Debtor, resulting in a loss of the "inchoate
11 ownership" of the Receivables. Opposition, p.16:19-17:28.
12 Defendants claim that the "implications of termination for cause"
13 include discharge of the District's "executory" obligation to
14 reimburse the Debtor. Opposition, p.17:24-18:3. They claim this
15 left the Receivables with the District which was free to allow
16 Defendants to use them. Opposition, p. 18:12-13 (ownership
17 interest was lost resulting in District retaining control of the
18 Receivables).

19 At trial, Defendants made the same argument that because the
20 MSSA had been terminated "for cause," the Debtor was divested of
21 any right to the Receivables. Post-Trial Brief, p.22:11-15 (even
22

23 ² In their Post-Trial Brief, Defendants referred to
24 "reimbursement" more than 30 times. Docket no. 139. In their
25 Opposition, they refer to "reimbursement" more than 50 times. To
26 suggest the court did not consider their reimbursement argument
in the Decision because it only relied on §5.2 rather than §5.1
of the MSSA verges on sanctionable.

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1 if Debtor had a right to the Receivables, termination of MSSA for
2 cause discharged District's executory obligations so it had no
3 further obligation to pay management fee from pass-through
4 revenue). The Decision found that this argument had no merit.
5 Decision, p.15:15-22 (rejecting argument that right to accrued
6 Receivables terminated when the term of MSSA ended); p.17:9-24
7 (rejecting argument that termination of MSSA for cause defeated
8 ownership of accrued Receivables).

9 Defendants also argued at trial that once the MSSA was
10 terminated, the MSA became the "only operative agreement" and,
11 pursuant to its terms, the Debtor could no longer claim it owned
12 the Receivables and SSH was free to use them without
13 distinguishing between pre-termination and post-termination
14 accrual. Post-Trial Brief, p.11:21-23 (the "only operative
15 agreement" says the District owns the Receivables). The Decision
16 rejected this argument as well. Decision, p.15:7-12 (the District
17 could not assign the right to use the Receivables to SSH because
18 the Debtor owned them); p.18:19-20:17 (explaining Debtor's right
19 to accrued Receivables survived termination of the MSSA).

20 Defendants' third alleged factual issue merely restates old
21 theories. The Decision clearly considered and soundly rejected
22 Defendants' interpretation of the MSSA and the MSA, considered
23 and rejected their argument about the "implications" of
24 termination for cause, and considered and agreed with the
25 Trustee's position regarding the meaning of "accrual." The law-
26 of-the-case doctrine forecloses this attack on the Decision.

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1 **IV. Conclusion**

2 The Trustee has met his burden for granting summary judgment
3 on the Counterclaim and the court will dismiss it. Defendants
4 have not presented any genuine factual issues that defeat summary
5 judgment; they simply re-argue issues that were raised and
6 determined in the Decision, dressing them up as factual issues.

7 It is the law of the case that the Trustee owns the
8 Receivables. It follows that the Trustee did not tortiously
9 interfere with Defendants' contract with the District by claiming
10 to own the Receivables, did not intentionally misrepresent his
11 ownership, did not abuse process or commit fraud on the court by
12 doing so, did not convert any Receivables belonging to
13 Defendants, or act in grossly negligent manner. By definition,
14 Defendants have no damages arising from any of these Claims.

15 The Trustee is entitled to judgment in his favor dismissing
16 the Counterclaim in its entirety. The Trustee is requested to
17 submit an order conforming to this ruling.

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19 * * * * * End of Decision * * * * *
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1 Court Service List

2 No service required.

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